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Filing date: **09/25/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202219
Party	Plaintiff Eat Right Foods Ltd.
Correspondence Address	SIMONE M KATZ ONEILL SHARTISIS FRIESE LLP ONE MARITIME PLAZA, 18TH FLOOR SAN FRANCISCO, CA 94111 UNITED STATES skatz@sflaw.com
Submission	Plaintiff's Notice of Reliance
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Date	09/25/2012
Attachments	Notice of Reliance No. 1.pdf (4 pages)(1441709 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EAT RIGHT FOODS LTD.,

Opposer,

v.

KEVIN LEVILLE,

Applicant.

Opp. No.: 91202219

Ser. No.: 77/868,068

Date of Publication:
April 26, 2011

OPPOSER EAT RIGHT FOODS LTD.'S
NOTICE OF RELIANCE NO. 1.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to 37 C.F.R. § 2.122(d) and 704.03(b)(1)(A) of the Trademark Trial and Appeal Board Manual of Practice and Procedure, Opposer Eat Right Foods Ltd. provides Notice of Reliance on Opposer's Registration No. 3,045,314, prepared and issued by the United States Patent and Trademark Office, submitted herewith.

Dated: September 25, 2012.

Respectfully Submitted,
SHARTSIS FRIESE LLP

By: _____


JOSEPH V. MAUCH

Attorneys for Opposer
EAT RIGHT FOODS LTD.

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,045,314

Registered Jan. 17, 2006

TRADEMARK
PRINCIPAL REGISTER



EAT RIGHT FOODS LIMITED (NEW ZEALAND
CORPORATION)
7 KOTUA PLACE STOKE
NELSON, NEW ZEALAND

FOR: ORGANIC AND ALLERGY SENSITIVE
CAKES AND COOKIES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 8-1-2001; IN COMMERCE 10-1-2001.

OWNER OF NEW ZEALAND REG. NO. 676367,
DATED 10-2-2003, EXPIRES 10-2-2010.

THE COLOR(S) GREEN, GOLD AND WHITE IS/
ARE CLAIMED AS A FEATURE OF THE MARK.

THE COLOURS GREEN AND GOLD APPEAR AS
A RECTANGULAR BACKGROUND ON WHICH
WHITE LETTERING IS PLACED.

SER. NO. 78-481,574, FILED 9-10-2004.

MICHELLE S. WISEMAN, EXAMINING ATTOR-
NEY

STATUS DOCUMENTS

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Mark: EATRIGHT



US Serial Number: 78481574

Application Filing Date: Sep. 10, 2004

US Registration Number: 3045314

Registration Date: Jan. 17, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Feb. 01, 2011

Publication Date: Oct. 25, 2005

Mark Information

Mark Literal Elements: EATRIGHT

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Color Drawing: Yes

Color(s) Claimed: The color(s) green, gold and white is/are claimed as a feature of the mark.

Color Location: The colours green and gold appear as a rectangular background on which white lettering is placed.

Design Search Code(s): 26.11.21 - Rectangles that are completely or partially shaded

Foreign Information

Foreign Registration 676367

Foreign Registration Date: Oct. 02, 2003

Number:

Foreign NEW ZEALAND

Foreign Expiration Date: Oct. 02, 2010

Application/Registration

Country:

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Organic and allergy sensitive cakes and cookies

International Class: 030 - Primary Class

U.S Class: 046

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Aug. 01, 2001

Use in Commerce: Oct. 01, 2001

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: Yes

Currently 44E: Yes

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Eat Right Foods Limited

Owner Address: 7 Kotua Place Stoke
Nelson
NEW ZEALAND

Legal Entity Type: CORPORATION

State or Country Where NEW ZEALAND
Organized:

Attorney/Correspondence Information

Prosecution History

Maintenance Filings or Post Registration Information

TM Staff and Location Information